

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

ROY WILLARD BLANKENSHIP,

Petitioner,

v.

405CV194

WILLIAM TERRY, Warden,
Georgia Diagnostic and Classification
Center,

Respondent.

This 6 day of February, 2008.



B. AVANT EDENFIELD, JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA

ORDER

28 U.S.C. § 2254 habeas petitioner Roy Willard Blankenship appeals this Court's Order and Judgment dismissing his petition. Doc. # 28. He applies for a Certificate of Appealability (COA). Doc. # 30. The Court will construe his COA application as an implied motion for leave to appeal *in forma pauperis* (IFP). His IFP motion is examined under the pre-PLRA version of 28 U.S.C. § 1915. *Davis v. Fechtel*, 150 F.3d 486, 490 (5th Cir. 1998).

Blankenship's COA application can be denied if it presents no procedural issue debatable among jurists of reason, *see Henry v. Dep't of Corrections*, 197 F.3d 1361, 1364 (11th Cir. 1999), or otherwise fails to make a substantial showing that he has been denied a constitutional right. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Gordon v. Sec'y Dep't of Corr.*, 479 F.3d 1299, 1300 (11th Cir. 2007); 28 U.S.C. § 2253(c)(2).

The Court agrees that petitioner has made a substantial showing here. *Blankenship v. Terry*, 2007 WL 4404972 (S.D.Ga. 12/13/07) (unpublished), presented a sufficiently close call on where the dividing line exists for ineffective assistance claims in the context this case presents. Accordingly, the Court **GRANTS** Roy Willard Blankenship's COA/IFP motions. Doc. # 30.